

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

CHARLES E. HAYS JR.)

a/k/a "Chuck Hays")

Defendant.)

INFORMATION

CL09-91 PJS

18 U.S.C. § 1341, 2

18 U.S.C. § 1343, 2

31 U.S.C. § 5324

18 U.S.C. § 981(a)(1)(C)

18 U.S.C. § 982(a)(1) and (a)(2)(A)

THE UNITED STATES ATTORNEY CHARGES THAT:

INFORMATION

The United States Department of Justice, Criminal Division, Fraud Section,
and the United States Attorneys Office for the District of Minnesota charge that at all times
material to this Information:

BACKGROUND

1. Defendant CHARLES E. HAYS JR., also known as "Chuck Hays,"
(HAYS) was a resident of Rosemount, Minnesota.

2. Crossfire Trading LLC ("Crossfire") is a domestic limited liability
company incorporated in Minnesota on March 27, 2006. The defendant was the
President of Crossfire and operated Crossfire out of his residence at 1294 121st Street
West, Rosemount, Minnesota, 55068.

SCANNED

APR 13 2009

U.S. DISTRICT COURT MPLS

FILED APR 13 2009

RICHARD D. SLETTEN

JUDGMENT ENTD _____

DEPUTY CLERK _____

COUNT 1
(Mail Fraud)

Background

3. The allegations in paragraphs 1 and 2 of this Information are hereby realleged and incorporated by reference as if fully set forth herein.

Purpose of the Scheme

4. From in or about January 2001, and continuing through in or about February 2009, in the State and District of Minnesota, the defendant,

CHARLES E. HAYS JR.,

a/k/a Chuck Hays,

knowingly and with the intent to defraud, devised and intended to devise a scheme and artifice to defraud and to obtain money by means of material false or fraudulent pretenses, representations, and promises.

The Scheme

5. The defendant devised and participated in a scheme whereby he solicited individuals to invest money with him and/or Crossfire (or its predecessor entity, CBK LLC, collectively referred to herein as "Crossfire"). To induce potential investors to invest money with him and/or Crossfire, the defendant held himself out to be a day trader in stock index futures and other futures contracts. He falsely represented to potential investors that his trading was consistently profitable and earned approximately three percent (3%) per month. Based on these material misrepresentations, many potential investors chose to invest money with Crossfire.

6. Once an individual decided to invest money with Crossfire, the defendant gave the investor a document entitled "Investment Agreement Between [Customer Name] and Crossfire Trading LLC," setting forth the terms of investment with Crossfire. Among other things, the agreement misrepresented the goal and activities of Crossfire and how investor profits and losses would be handled. The agreement was executed by the investor and by the defendant as President of Crossfire.

7. According to the agreement, Crossfire is "a day-trading company whose primary activity is short term (intra-day) trading of futures. The trading activities are limited to registered equities traded on the CME, CBOE and NYMEX." However, instead of using investor funds to trade in the equities listed in the investor agreement, the defendant diverted and converted at least a portion of the funds obtained from investors for his own personal use and benefit or other unauthorized purposes. In particular, Hays

used the funds obtained from investors to purchase items including boats, cars, his residence, boat slips, a storage locker, jewelry, a crane, tractors, trailers, gold coins, tools and other equipment, as well as to pay for various expenses, including vacations for himself and his family, education expenses for his children, and monetary and other gifts to his wife and children.

8. As part of the scheme and artifice, the defendant instructed investors to either mail him a check for the amount that individual wanted to invest or to wire the money to Crossfire's account at Wells Fargo Bank.

9. The defendant created and sent investors fraudulent monthly "Crossfire Investor Summaries" purportedly showing their investments and any gains thereon. The defendant would often email the statements to investors or post them on Crossfire's website, for which the defendant had given investors user identification numbers and passwords.

10. When investors asked the defendant for details regarding his trading or his investment philosophy, the defendant misrepresented to investors that he traded through an account in the name of Crossfire at Dorman Trading LLC ("Dorman"), a registered brokerage located in Chicago, Illinois. The defendant also stated that Crossfire's investors' funds were maintained in Crossfire's Dorman account, that Dorman cleared Crossfire's trades, and that Crossfire's Dorman account had been opened by NDX Futures ("NDX"), an introducing brokerage firm which assists customers in opening futures trading accounts.

11. To support these misrepresentations, the defendant showed several investors a fraudulent November 2008 Dorman account statement which he claimed was for Crossfire's account with Dorman. The statement showed trading in CME Group E-mini index futures and a month-end balance of approximately \$37 million. The defendant misrepresented to investors that their investments were held in that account.

12. In order to give legitimacy to the defendant's fraudulent activities, the defendant would use funds received from new investors to make payments to earlier investors.

Mail Communications

13. On or about the dates set forth below, in the State and District of Minnesota, and elsewhere, the defendant,

CHARLES E. HAYS JR.,

a/k/a "Chuck Hays,"

for the purpose of executing the above-described scheme and artifice to defraud, did knowingly send or deliver or cause to be sent or delivered, by the Postal Service, and private and commercial interstate carrier, according to the directions thereon, the following matters and things:

Count	Date	From	To	Description
1	3/29/2008	Prior Lake, MN	Rosemount, MN	Investor Agreement between Crossfire and an investor and a \$100,000 check from the investor payable to Crossfire

All in violation of Title 18, United States Code, Sections 1341, 2.

COUNT 2
(Wire Fraud)

14. The allegations in paragraphs 1 and 2 of this Information are hereby realleged and incorporated by reference as if fully set forth herein.

The Scheme

15. The allegations in paragraphs 3 through 12 of Count 1 of this Information are hereby realleged and incorporated by reference as if fully set forth herein, as describing a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, devised and intended to be devised by the defendant.

Wire and Radio Communications

16. On or about the dates set forth below, within the State and District of Minnesota, and elsewhere, the defendant,

CHARLES E. HAYS JR.

a/k/a "Chuck Hays,"

for the purpose of executing the above-described scheme and artifice to defraud, did knowingly transmit and cause to be transmitted, by means of wire and radio communication in interstate commerce the following writings, signs, signals, pictures, and sounds:

Count	Date	Transmission
2	3/4/2008	\$2,000,000 wire transfer from an investor's account at Jeffries & Co. through J.P. Morgan in New York, NY to Crossfire account #XXXXXXX746 at Wells Fargo Bank in San Francisco, CA

All in violation of Title 18, United States Code, Sections 1343, 2.

COUNT 3
(Structuring)

17. The allegations in paragraphs 1 through 12 of this Information are hereby realleged and incorporated by reference as if fully set forth herein.

18. On or about February 2, 2009, in the State and District of Minnesota and elsewhere, the defendant,

CHARLES E. HAYS JR.

a/k/a "Chuck Hays,"

did knowingly and willfully commit an offense against the United States, that is to structure and attempt to structure transactions with one or more domestic financial institutions, that is Wells Fargo Bank, for the purpose of evading the currency reporting requirements of Title 31, United States Code, Section 5313(a), and the regulations prescribed thereunder, and did so as a pattern of illegal activity involving more than \$100,000 in a 12-month period, including but not limited to, the following withdrawals:

Check No.	Payor/Remitter	Payee	Location of Bank Branch	Amount	Date Check Cashed
1391	Charles E. Hays	Cash	15574 Pilot Knob Rd., Apple Valley, MN	\$9,000	2/2/2009
1392	Charles E. Hays	Cash	1435 Cedar Ave., Apple Valley, MN	\$9,000	2/2/2009
1393	Charles E. Hays	Cash	925 Country Rd., Burnsville, MN	\$9,000	2/2/2009
1394	Charles E. Hays	Cash	100 W. Burnsville Pkwy, Burnsville, MN	\$9,000	2/2/2009
1395	Charles E. Hays	Cash	3390 Pilot Knob Rd., Eagan, MN	\$9,000	2/2/2009
1396	Charles E. Hays	Cash	9062 Buchanan Trail, Inver Grove Heights, MN	\$9,000	2/2/2009
1397	Charles E. Hays	Cash	1710 Robert St. S, Saint Paul, MN 55118	\$9,000	2/2/2009

All in violation of Title 31, United States Code, Sections 5324(a)(3) and (d)(2).

FORFEITURE ALLEGATIONS

18 U.S.C. §§ 981(a)(1)(C), 982(a)(1)

1. The allegations in Counts 1 through 3 of this Information are hereby realleged and incorporated by reference as if fully set forth herein.
2. As the result of the offenses alleged in Counts 1 through 3 of this Information, the defendant

CHARLES E. HAYS JR.,

a/k/a Chuck Hays,

shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), all his right, title and interest in any property

constituting, or derived from, proceeds traceable to the violations of Title 18, United States Code, Sections 1341 and 1343, including but not limited to:

- 1) The motor yacht "Cacique," a 64-foot Viking Enclosed Bridge Sport Fisherman, model year 2007, bearing hull identification number VKY64337F708 and Coast Guard Official Number 1212485;
- 2) Funds held in Wells Fargo account number 3393278746, held in the name of Crossfire;
- 3) Funds held in Wells Fargo account 9065277650;
- 4) Boat slips owned by the defendant at Roy's Point Marina, Bayfield, WI, including Slips #8, 14, 22, 30, 33, 45, 35, 36, and 37;
- 5) 2007 Crew Cab F350, VIN 1FTWW31P27EA96782;
- 6) The defendant's residence at 1294 121st Street W, Rosemount MN 55068;
- 7) 2001 Carolina Classic Runabout motor yacht, Hull/ID#CAR25276K001 and accompanying boat trailer;
- 8) Mechanical crane located at Roy's Point Marina, Bayfield, WI;
- 9) Charles Schwab IRA Acct #8269-4377;
- 10) Storage garage at 1301 Cliff Rd East, Unit #30, Burnsville, MN;
- 11) 1 oz. proof gold bullion coin;
- 12) 2002 John Deere Front Loader Tractor 200CX with attachments , Serial #W0200CX008058;
- 13) Warrior Road Title Trailer, VIN 4WFCF202261008708;

- 14) 2006 Volkswagen Jetta, VIN3VWDT71K86M739802;
- 15) 1999 Volkswagen Jetta , VIN3VWSF29M9XM061117;
- 16) Cashiers check #5055551846 for \$24,000 from Sheldon Pool payable to the defendant for the sale of a Bobcat, which was purchased with proceeds of the fraud, on February 3, 2009;
- 17) Miscellaneous tools, cabinets and shelving located in the storage garage at 1301 Cliff Rd East, Unit #30;
- 18) Miscellaneous tools, sawmills and equipment located at the defendant's residence;
- 19) Miscellaneous jewelry, including the following:
 - a. 14 karat white gold 2.05 ct cushion cut diamond earrings, valued at approximately \$15,000 on 10/19/05;
 - b. 14 karat white gold ring with 1.56 carat diamond, valued at approximately \$13,000 on 10/18/06;
 - c. 18 karat yellow gold .30 ct diamond ring, valued at approximately \$3700 on 12/12/04;
 - d. Reverso Duetto Watch, valued at approximately \$5,750 on 10/21/03;
 - e. Jaeger Reverso Stainless Steele Watch, valued at approximately \$3800 on 12/8/05; and

- 20) a sum of money representing the amount of proceeds obtained as a result of the offense(s) for which the defendant is convicted.

.If any of the property described above, as a result of any act or omission of the defendant:

- (A) cannot be located upon the exercise of due diligence;
- (B) has been transferred or sold to, or deposited with, a third party;
- (C) has been placed beyond the jurisdiction of the Court;
- (D) has been substantially diminished in value; or
- (E) has been commingled with other property which cannot be divided without difficulty;


it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(1) and (a)(2)(A), 1341, and 1343, Title 31, United States Code, Section 5324 and Title 28, United States Code, Section 2461(c).

FRANK J. MAGILL, JR.
United States Attorney

Date:


4-13-09


BY: ANN ANAYA
Assistant U.S. Attorney, Attorney ID No. 178470

STEVEN A. TYRELL
Chief
Criminal Division, Fraud Section
U.S. Department of Justice

Date:

4-13-09


BY: LAURA N. PERKINS
Trial Attorney, Fraud Section